

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

VICTOR HERNANDEZ et al.,

Plaintiffs,

V.

U.S. BANK, N.A. et al.,

Defendants.

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No. 3:13-cv-2164-O

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After making an independent review of the pleadings, files, and records in this case, and the Findings, Conclusions, and Recommendation of the United States Magistrate Judge dated July 1, 2014, the Court finds that the Findings, Conclusions, and Recommendation of the Magistrate Judge are correct and they are accepted as the Findings, Conclusions, and Recommendation of the Court.

IT IS THEREFORE ORDERED that the Findings, Conclusions, and Recommendation of the United States Magistrate Judge are accepted.

IT IS FURTHER ORDERED that:

1. Defendants' Motion for Summary Judgment (ECF No. 34) is **GRANTED** in favor of Defendants Bank of America, N.A., U.S. Bank, N.A., and American Homes 4 Rent Properties Two, LLC as to Plaintiffs' common law fraud claim based on allegations that Defendants falsely represented to Plaintiffs that Plaintiffs' home could not be foreclosed upon during the review process and that Plaintiffs should disregard letters regarding a foreclosure sale because there was no sale date on the property, and that claim based on those allegations is **DISMISSED with prejudice**.
2. Defendants' Motion for Summary Judgment (ECF No. 34) is **DENIED** as to Plaintiffs' common law fraud claim based on allegations that Defendants falsely represented to Plaintiffs that Plaintiffs' home was no longer in foreclosure because Plaintiffs paid the reinstatement amount, as to Plaintiffs' Texas Property Code claim,

as to Plaintiffs' breach of contract claim, and as to Plaintiffs' requests for declaratory judgment and for an accounting.

SO ORDERED on this **17th day of July, 2014**.


Reed O'Connor
UNITED STATES DISTRICT JUDGE